

STAR AUTO SALES, et al. v. YOYNOW, BAYARD,WHYTE AND CO., et al.
Vincent Petruzziello --- December 18, 2023

6

Petruzziello

notice.

DIRECT EXAMINATION

BY MR. MULE:

Q. You go by -- is it

Mr. Petruzziello, is that how you pronounce it?

A. Petruzziello.

Q. Mr. Petruzziello, good morning.

A. Good morning.

Q. Where are you today?

A. In Brick, New Jersey, in my home
office.

Q. All right. Is anyone with you?

A. No, but my wife is in the house.

Q. And do you have any documents with
you this morning?

A. Yes. On my desk, I have the -- my
report and my rebuttal report.

Q. When you refer to your report,
you're referring to your initial September 15,
2023 report; correct?

A. Correct.

Q. And your rebuttal report is dated
November 10, 2023; correct?

A. Correct.

STAR AUTO SALES, et al. v. YOYNOW, BAYARD,WHYTE AND CO., et al.
Vincent PetruzzIELLO --- December 18, 2023

15

1 PetruzzIELLO

2 drugs in the last 24 hours?

3 A. No, sir.

4 Q. Okay. And I'd like to identify
5 your two reports. So, we're going to put up as
6 Exhibit 206 and 207 your reports. We'll start
7 with 206.

8 (Plaintiff's Exhibits 206 and 207 were
9 so marked for identification.)

10 Mr. PetruzzIELLO, we'll scroll through
11 this report. This is what we received
12 (indicating). I just want to -- let's scroll
13 down to your signature, which is on page 22.
14 Just to confirm, is that your signature?

15 A. Yes, it is.

16 Q. It looks like it's a little smudged
17 or something. Is that a stamp or is that an
18 actual --

19 A. I used the stamp.

20 Q. You used a stamp?

21 A. Yes.

22 Q. And if you go to the next page, the
23 appendix, the appendix says, "I have reviewed
24 the following categories of documents in
25 preparation of this report." And it lists a

STAR AUTO SALES, et al. v. YOYNOW, BAYARD,WHYTE AND CO., et al.
Vincent PetruzzIELlo --- December 18, 2023

16

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PetruzzIELlo

number of documents and the enumerated list goes on for two pages, and it has 33 entries.

Are there any documents besides the documents that are listed on these pages, 23 and I'll go to 24, that you reviewed and considered in coming to your opinion?

A. None that come to mind. I reviewed, as you can see, quite a few documents, so I tried to list them all.

Q. All the documents that are listed here, did you review all of those documents?

A. Yes.

Q. The last document, 33, says, "Additional discovery documents."

Can you tell me what that means?

A. I believe one of them was an engagement letter. I really don't remember other specific ones. There was quite a few exhibits and things.

Q. An engagement letter? Whose engagement letter?

A. From Voynow, Bayard to the defendants -- plaintiffs.

I'm going to just close my door, I can

STAR AUTO SALES, et al. v. YOYNOW, BAYARD,WHYTE AND CO., et al.
Vincent PetruzzIELLO --- December 18, 2023

114

1 PetruzzIELLO

2 capacity.

3 BY MR. MULE:

4 Q. Did that particular engagement
5 involve the topic of fraud and management's
6 role and responsibility in operating an
7 automobile dealership?

8 A. I believe it did.

9 Q. Is that the case that you're
10 referring to when you state that you've been
11 qualified as an expert and have presented
12 testimony on the topic of fraud, and
13 management's role and responsibility in
14 operating an automobile dealership?

15 A. Yes.

16 Q. Is there any other case where
17 you've been qualified as an expert and have
18 presented testimony on that topic?

19 A. No.

20 Q. So, you've been qualified as an
21 expert in one case; correct?

22 A. You got to start somewhere.

23 Q. And that was how many years ago?

24 A. I believe it was 2013. It went on
25 for a while, but -- if you want me to go to my

STAR AUTO SALES, et al. v. YOYNOW, BAYARD,WHYTE AND CO., et al.
Vincent PetruzzIELLO --- December 18, 2023

115

1 PetruzzIELLO

2 credenza, I can look at the report.

3 Q. That's unnecessary for the moment.
4 Have you been consulted by any dealership or
5 anyone else other than this case, about claims
6 concerning management's role and responsibility
7 in operating an automobile dealership?

8 A. No. I've done consulting work for
9 various dealer groups, but it wasn't
10 specifically dealing with fraud.

11 Q. If you could get the -- I guess get
12 that report from the credenza.

13 MS. FITZGERALD: You know what? I'm
14 not going to -- I'm going to object to
15 any -- well, first of all, what's the
16 follow-up on it?

17 MR. MULE: He just referred to it,
18 so I'm going to ask him questions about
19 it.

20 MS. FITZGERALD: I'll just have a
21 standing objection to the line of
22 questions. This is not a document that
23 is referenced or incorporated into the
24 report in this case for which he is being
25 offered as an expert to provide

STAR AUTO SALES, et al. v. YOYNOW, BAYARD,WHYTE AND CO., et al.
Vincent PetruzzIELLO --- December 18, 2023

116

1 PetruzzIELLO

2 testimony.

3 MR. MULE: Okay. But we -- but
4 nonetheless, we'll ask questions.

5 BY MR. MULE:

6 Q. Mr. PetruzzIELLO, if you could
7 please get the report (indicating). Okay. If
8 you could -- you started to say that -- what
9 that claim was. If you could refresh your
10 recollection by looking at that report and tell
11 me in a little more detail what the claims were
12 in that case.

13 A. Well, the claim is quite simple.
14 The plaintiff, Brandow, tried to say that the
15 people that were doing the floor plan reviews
16 were not competent and made errors in counting
17 the cars. And that resulted in their
18 out-of-trust situation, not paying for sold
19 cars, grew to the point where they couldn't pay
20 them off.

21 Q. They were saying that the
22 incompetence of the defendant in floor plan
23 review in counting cars linked to what?

24 A. Not to belabor it, but when a car
25 dealership borrows against the cars in

STAR AUTO SALES, et al. v. YOYNOW, BAYARD,WHYTE AND CO., et al.
Vincent PetruzzIELlo --- December 18, 2023

138

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PetruzzIELlo

MS. FITZGERALD: Objection.

THE WITNESS: No.

BY MR. MULE:

Q. I'm sorry, what was the answer?

A. No.

Q. Was there anything in the November 10, 2023 rebuttal report of Douglas P. Zasnowski that changed your opinions in this case?

A. Not at all.

Q. Did you meet with counsel in preparation for your deposition today?

A. We talked on the phone.

Q. When?

A. Most recently, Sunday, yesterday.

Q. For how long?

A. Half hour, maybe.

Q. Did you review any documents in preparation for your deposition today?

A. I've reread my reports.

Q. Anything else?

A. No.

Q. Have you communicated with Steven Sher in this case?